UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/866,143	05/25/2001	Ilya Kirnos	50277-1734	4448

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The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

_____

Ex parte ILYA KIRNOS

_____

Appeal 2008-004580
Application 09/866,143
Technology Center 2400

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Decided:[1] June 11, 2009

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Before JEAN R. HOMERE, JAY P. LUCAS, and
ST. JOHN COURTENAY III, *Administrative Patent Judges*.

COURTENAY, *Administrative Patent Judge*.

DECISION ON APPEAL

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[1] The two-month time period for filing an appeal or commencing a civil action, as recited in 37 CFR § 1.304, begins to run from the decided date shown on this page of the decision. The time period does not run from the Mail Date (paper delivery) or Notification Data (electronic delivery).

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-33, 76-88 and 90-107. Claims 34-75 and 89 are canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We Reverse.

Invention

Appellant's invention generally relates to an application for managing network files. More particularly, the invention relates to detecting alterations for the purpose of synchronization. (See Spec. 1, ll. 5-7).

Representative Claim

1.   A computer-implemented method for managing files, the method comprising:

recording information about one or more items in a file system to a comparison file, wherein the information recorded to the comparison file includes location information to identify where in the file system the one or more items are located;

generating a working version of a portion of the file system, the working version including at least one or more working items that correspond to the one or more items located in the file system;

persistently maintaining the working version; and

upon a synchronization event, comparing the location information for the one or more items in the comparison file to the working version to determine if any of the corresponding one or more working items has been moved to a new location in the working version.

Prior Art

The Examiner relies on the following references:

Wolff	US 6,101,508	Aug. 8, 2000
Bailey	US 6,473,767 B1	Oct. 29, 2002
Rudoff	US 6,636,878 B1	Oct. 21, 2003
Verma	US 6,856,993 B1	Feb. 15, 2005

Examiner's Rejections

1. Claims 1-3, 6, 9, 12-16, 21, 24, 25, 31-33, 76-78, 81, 84, 87, 88, 90, 95, 99, and 105-107 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Verma in view of Bailey and Rudoff.

2. Claims 4, 5, 7, 8, 10, 11, 17-20, 22, 23, 26-30, 79, 80, 82, 83, 85, 86, 91-94, 96-98, and 100-104 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Verma in view of Bailey, Rudoff and Wolff.

FINDINGS OF FACT

In our analysis *infra*, we rely on the following findings of fact (FF) that are supported by a preponderance of the evidence:

1. Verma teaches that data changes are logged by separating the operational events into one log and the actual data write details of the transaction into another log. A mechanism compares a signature logged with both the logged record and the data to determine whether a logged record is synchronized with its corresponding data page. (Col. 2, ll. 57-63).

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2.   Bailey teaches comparing data file and anti-file names in said directory entries within a directory. (Col. 2, ll. 51-52).

APPELLANT'S CONTENTIONS

Appellant contends that the cited references do not teach or suggest the limitation of comparing the location information for the one or more items in the comparison file to the working version. (See App. Br. 11-13).

ISSUE

Based upon our review of the administrative record, we have determined that the following issue is dispositive in this appeal:

Has Appellant shown the Examiner erred in finding that the cited references teach or suggest the limitation of comparing the location information for the one or more items in the comparison file to the working version?

PRINCIPLES OF LAW

"What matters is the objective reach of the claim. If the claim extends to what is obvious, it is invalid under § 103." *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 419 (2007).

Appellant has the burden on appeal to the Board to demonstrate error in the Examiner's position. *See In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006). Therefore, we look to Appellant's Briefs to show error in the Examiner's proffered prima facie case.

ANALYSIS

Claims 1-3, 6, 9, 12-16, 21, 24, 25, 31-33, 76-78, 81, 84, 87, 88, 90, 95, 99, and 105-107

As noted above, Appellant contends that the cited references do not teach or suggest the limitation of comparing the location information for the one or more items in the comparison file to the working version, as recited in claim 1. (See App. Br. 11-13).

The Examiner contends that the combination of Verma and Bailey teaches this limitation. More specifically, the Examiner contends that the cited combination of references discloses the capability to compare directory information to determine file system information updates between two entities. (Ans. 32).

We note that each independent claim on appeal requires a separate comparison file that *compares location information* between a working file and the comparison file to determine if a file has been moved. It is our view that the cited references fail to teach or suggest this limitation for the reasons discussed *infra*.

As noted above, Verma teaches two file logs. (FF 1). The first file log contains operational events and the second file log contains the actual data write results of a transaction. (FF 1). Verma teaches that a comparison step, compares the signature logged with the logged record and data to determine if the logged record is synchronized with its corresponding data page. Thus, we agree with Appellant that Verma does not teach or suggest a *comparison of location information*, as recited in the independent claims. Moreover, we find that Bailey fails to cure the deficiencies of Verma.

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The independent claims of the present invention require that location information be recorded into the comparison file, which is compared with the working version of the file. However, as noted above, Bailey discloses a direct comparison between a source and target directory. (See FF 2 and col. 4 ll. 9-13). Thus, Bailey does not teach comparing the location information between a working file and the contents of the comparison file, as claimed. Further, the Examiner relied upon Rudoff to teach the limitation of "persistently maintaining the working version" of a file system. (Ans. 11). Thus, we do not find, nor has the Examiner established, that Rudoff cures the deficiencies of Verma and Bailey.

We find that the cited references do not teach or suggest the limitation of comparing the location information in the comparison file to the working version, as required by the independent claims. Based on the record before us, it is our view that the differences between the cited references and the claimed invention are such that the Examiner's prima facie case of obviousness cannot be sustained. Thus, we conclude that Appellant has shown error in the Examiner's rejection of claims 1-3, 6, 9, 12-16, 21, 24, 25, 31-33, 76-78, 81, 84, 87, 88, 90, 95, 99, and 105-107 under 35 U.S.C. § 103(a). Accordingly, we reverse the Examiner's first stated rejection under 35 U.S.C. § 103(a).

Claims 4, 5, 7, 8, 10, 11, 17-20, 22, 23, 26-30, 79, 80, 82, 83, 85, 86, 91-94, 96-98, and 100-104

We next consider the Examiner's rejection of dependent claims 4, 5, 7, 8, 10, 11, 17-20, 22, 23, 26-30, 79, 80, 82, 83, 85, 86, 91-94, 96-98, and

100-104. We do not find, nor has the Examiner established, that Wolff cures the deficiencies of the combination of Verma, Bailey, and Rudoff that were discussed above. Accordingly, we reverse the Examiner's rejection of dependent claims 4, 5, 7, 8, 10, 11, 17-20, 22, 23, 26-30, 79, 80, 82, 83, 85, 86, 91-94, 96-98, and 100-104 for the reasons discussed *supra*.

CONCLUSION

Appellant has established the Examiner erred in finding that the cited references teach or suggest the limitation of comparing the location information for the one or more items in the comparison file to the working version.

DECISION

We reverse the Examiner's rejections of claims 1-33, 76-88, and 90-107 under 35 U.S.C. § 103(a).

REVERSED

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